



May 18, 1999

Lieutenant Bill Kral
Amarillo Police Department
200 E. 3rd
Amarillo, Texas 79101-1514

OR99-1362

Dear Lt. Kral:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124493.

The Amarillo Police Department (the "department") received a request for incident report number 98-70602. You claim that the incident report is excepted from disclosure under section 552.108 of the Government Code and section 58.007 of the Family Code. We have considered the exceptions you claim and have reviewed the documents submitted.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality statutes such as section 58.007 of the Family Code. Section 58.007 makes certain juvenile law enforcement records confidential. Family Code section 51.04(a) states that the Juvenile Justice Code, Title 3 of the Family Code, "covers the proceedings in all cases involving the delinquent conduct or conduct indicating the need for supervision engaged in by a person who was a child within the meaning of [Title 3] at the time he engaged in the conduct." Thus, section 58.007 deems confidential law enforcement records from all cases involving a child engaging in delinquent conduct or conduct indicating the need for supervision. The incident report is not the type of record that section 58.007 covers. Therefore, we conclude that the incident report is not excepted from disclosure under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.

Section 552.108(a)(2) excepts from disclosure information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication.

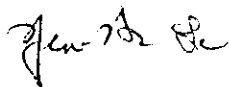
Generally, a governmental body claiming an exception under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a), (b), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the requested incident report relates to an investigation that has concluded in a result other than a conviction or deferred adjudication. Accordingly, we conclude that section 552.108(a)(2) is applicable to the requested information.

We note, however, that information normally found on the front page of an offense report is generally considered public. *See generally* Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the types of information that are considered to be front page offense report information, even if this information is not actually located on the front page of the offense report.

Generally, when an incident report contains information about an alleged sexual assault, certain front page offense report information must be withheld on the basis of common-law privacy under section 552.101 of the Government Code. *See Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Normally, the private information that must be withheld is information tending to identify the sexual assault victim. *See* Open Records Decision Nos. 393 (1983), 339 (1982). Here, however, the requestor has a special right of access pursuant to section 552.023 of the Government Code to information that is otherwise private. Thus, you must release the basic information to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/nc

Ref.: ID# 124493

encl: Submitted documents